

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 99-3797

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Theresa L. Hermes,	*	
	*	
Appellant,	*	
	*	Appeal from the United States
v.	*	District Court for the
	*	District of Nebraska.
State of Nebraska, acting through the	*	
Department of Public Institutions,	*	<b>[UNPUBLISHED]</b>
Western Nebraska Veterans' Home,	*	
	*	
Appellee.	*	

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Submitted: July 31, 2000  
Filed: August 3, 2000

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Before BEAM, FAGG, and LOKEN, Circuit Judges.

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PER CURIAM.

Theresa L. Hermes commenced this action alleging violations of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12112, et seq., by the State of Nebraska Department of Public Institutions. The district court<sup>1</sup> dismissed the action, and denied Hermes's motion for a new trial, based upon this court's decision that the States and their instrumentalities are entitled to Eleventh Amendment immunity from actions under

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<sup>1</sup>The HONORABLE RICHARD G. KOPF, Chief Judge, United States District Court for the District of Nebraska.

Title II of the ADA. See Alsbrook v. City of Maumelle, 184 F.3d 999, 1010 (8th Cir. 1999) (en banc), cert. dismissed, 120 S. Ct. 1265 (2000). Hermes appeals. Concluding the district court properly applied our controlling decision in Alsbrook, and did not abuse its discretion in denying Hermes's motion for a new trial, we affirm.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.